IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REV. APPLICATION NO. 386 OF 2004

Smt. Shivgami Velu Tevar .. Applicant.

V/s.

The State of Maharashtra .. Respondent.

Mrs.Avanti Rane h/f Laxman P. Kanal for Applicant.
Shri A.S. Gadkari, APP for the Respondent.

CORAM : A.M.KHANWILKAR, J.
DATED : 27.10.2004

PC :-

. Heard counsel for the parties.

2. Rule. Rule made returnable forthwith.

3. Shri A.S. Gadkari, learned APP waives service of notice for Respondent.

4. As a short question is involved, taken up for final disposal forthwith by consent.

5. The principal grievance made before this court is that the trial court proceeded to decide the matter without offering proper opportunity to the applicant. Reliance is placed on the Rozanama to contend that

neither the trial court gave opportunity to the applicant to engage an Advocate nor offerred any legal assistance to the applicant and as such she was not representated by the Advocate. Learned APP fairly accepts that there is nothing in the Rozanama to suggest that the court offered legal assistance to the applicant, who was not represented by any advocate. If it is so, the proceedings as conducted by the courts below are vitiated and will have to be set aside on this solitary reason. Instead, the matter will have to be relegated before the Chief Metropolitan Magistrate, 38th Court, Ballard Pier, Mumbai, who in turn shall offer an opportunity to the applicant to engage Advocate to espouse her cause or if she is unable to avail that opportunity, provide legal assistance to the Applicant. Only then the trial court can proceed with the trial against the applicant.

6. Application is allowed in the above terms.

7. Order accordingly.

.....